



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 21, 2022

IN THE MATTER OF:

Appeal Board No. 623617

PRESENT: MARILYN P. O'MARA, MEMBER

In Appeal Board No. 623616, the claimant appeals from the decision of the Administrative Law Judge filed April 26, 2022, which sustained the Commissioner of Labor's timeliness objection and continued in effect the initial determination holding the claimant ineligible to receive benefits, effective July 26, 2021 through September 5, 2021 (inadvertently recited as August 1, 2021 through September 5, 2021), on the basis that the claimant did not comply with registration requirements; and did not rule on the Commissioner of Labor's timeliness objection and the initial determination holding the claimant ineligible to receive benefits, effective November 30, 2020 through December 27, 2020, on the basis that the claimant did not comply with registration requirements.

In Appeal Board No. 623617, the claimant appeals from the decision of the Administrative Law Judge filed April 26, 2022, which sustained the Commissioner of Labor's timeliness objection and continued in effect the initial determination holding the claimant ineligible to receive benefits, effective November 23, 2020 through November 29, 2020, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and did not rule on the Commissioner of Labor's timeliness objection and the initial determination holding the claimant ineligible to receive benefits, effective July 19, 2021 through July 25, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such

certification.

At the combined telephone conference hearing before the Administrative Law Judge, testimony was taken. There were appearances by and on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. On appeal, the claimant has indicated that additional testimony and other evidence should be submitted regarding his ability to request a hearing in a timely manner. The Board has determined to provide the claimant another opportunity to submit such additional testimony and other evidence.

Specifically, the claimant contends that the delay in requesting a hearing was due to changes in his medication after he was released from the hospital. The claimant should produce medical documentation regarding his medications, including changes, and his ability to conduct his personal affairs after November 22, 2021.

Further, the Administrative Law Judge shall properly mark as exhibits, Pages B1 through B4, the initial determinations holding the claimant ineligible to receive benefits, effective November 23, 2020 through November 29, 2020 and effective July 19, 2021 through July 25, 2021, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification. The claimant should be questioned regarding all four determinations. The Administrative Law Judge shall render a decision on the Commissioner of Labor's timeliness objection regarding all four of the determinations and shall take testimony and evidence regarding the determinations if the Judge determines appropriate.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge be, and the same hereby are, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a combined hearing on the issues, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new combined decisions, on the issues, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER